

COMMISSIONERS APPROVAL

CHILCOTT 

THOMPSON 

LYONS

PLETTENBERG (Clerk & Recorder)

Date.....April 20, 2007

Members Present.....Commissioner Greg Chilcott, and  
Commissioner Howard Lyons

Minutes: Beth Farwell

Commissioner Alan Thompson traveled to Thompson Falls ~~in order~~ to attend a Mental Health and CDC meeting.

The Board met with members of the Museum, Farmers Market and Apple Days/Bitterroot Days in order to discuss the use of the power from the county building. Present was Laura Craig, Hamilton Farmers Market Manager; Maintenance Supervisor Brian Jameson, and Museum Director Helen Ann Bibler.

Brian gave a review of how long Farmers Market season runs (24 Saturdays), and an estimate of what the power usage would be for the season. He also included Bitterroot Days and Apple Days in this power estimation. Commissioner Chilcott asked if Brian based this estimate on the equipment used last year. Laura replied yes; however there will be less equipment used for fewer vendors. Commissioner Chilcott asked what kind of problems this creates in billing for this usage. Laura replied that they do not bill for Farmers Market but they do for Apple Days. Commissioner Chilcott expressed concern over the charges for the power usage that is coming from a county building (i.e., power services that are paid for by the taxpayers for county business, not for private enterprise).

Laura suggested that the County bill them directly for the power usage. Commissioner Lyons stated that this is a community project and expressed that they are not 'doing this against the Farmers Market'. Laura asked how this would be billed – monthly or for the season. Commissioner Chilcott replied since it covers two fiscal years, they will bill her twice. He wants to make it as painless as possible for the Farmers Market vendors and appreciates what the Farmers Market brings to the community.

Minutes: Glenda Wiles

The Board also met to discuss the request for an Attorney General opinion in regard to the 'one for two' interim zoning due to the recent passage of the ballot initiative.

Commissioner Chilcott stated he understands the Attorney General chooses which opinions he speaks to; noting the policy in this state office is to not make decisions regarding local policy. Alex stated normally the Attorney General does not make an interpretation on a policy if it only affects one local municipality. Commissioner Chilcott indicated there is some concern over the definition of 'density' but this is a local concern. Therefore, it appears the Attorney General will not provide an opinion, and the real question is how a local jurisdiction approaches the interpretation of the law. He asked if the county is challenged on the interpretation and the issue goes to court, then should we utilize the court guidelines in order to help determine the outcome. Commissioner Chilcott also felt there was some ambiguity in the interpretation, therefore they should ask the Attorney General what the local government rules are; which would then become a state-wide application, and therefore he should answer the county's question.

Commissioner Chilcott also stated the Board should consider withdrawing the request from County Attorney George Corn and under the above application, submit the question to the Attorney General. Alex stated he believes this request has already gone to the Attorney General and he will find that out. Commissioner Chilcott asked why the Commissioners were not given a copy of what was sent to the Attorney General, particularly since they are the office that requested this opinion. Alex stated there 'should be nothing surprising in the document that went out'. Commissioner Chilcott stated that information should be shared with the Commissioners. Commissioner Lyons stated they did receive an opinion but it was different from the Planning Department's interpretation. Commissioner Chilcott stated the broader question is how is local governments are supposed to review and interpret local regulations.

Commissioner Lyons made a motion to withdraw the request from the County Attorney to request an Attorney General opinion on the '1 for 2 zoning' (in regard to the density zoning). Commissioner Chilcott seconded the motion and all voted "aye". Commissioner Thompson was not present.

Public comment was then called for.

Carlotta Grandstaff asked how they would ask the question. Commissioner Chilcott indicated they will ask the question because it has state wide application on how the rules of local rules and regulations are interpreted. He indicated they should be similar to the same rules the court uses. He stated the county has a working opinion from the County Attorney and they will continue to utilize that until the Attorney General's opinion comes forth.

Commissioner Lyons made a motion to submit a request to the Attorney General for a clarification on the '1 for 2' initiative. Commissioner Chilcott commented that motion is what the Attorney General would not respond to and he should restate the motion as per the above discussion about the interpretation of local rules and regulations. Commissioner Lyons withdrew his first motion and restated his motion stating they should submit a request to the Attorney General addressing the rules of interpretation of local rules and regulations. Commissioner Chilcott seconded the motion.

Carlotta asked about the expired interim zoning in several months and the possibility that this request might 'muddy the water'; suggesting they 'just go with George's opinion'. Commissioner Chilcott stated he does not agree with George. Carlotta replied that he is 'your County Attorney'. Commissioner Chilcott stated George should have copied him on this information 'and the relationship is not good at this time'. He does not agree with George and many people are asking how the Commissioners are to handle this issue when the two opinions differ. He stated this question is pertinent and has statewide importance.

Commissioner Chilcott stated the Board is concerned that if they ended up going to court with George's opinion. He feels the issue/interpretation 'is a ratio part of the whole density definition'. Commissioner Chilcott stated the County Attorney would be the 'star witness' for this opinion when he is defending the county. Commissioner Chilcott stated an Attorney General's opinion will 'help us have better government in the future'.

Kathleen Driscoll stated that she understands the two sides differ; but if the Commissioners are not getting along with the County Attorney, the real losers are the citizens. She asked Commissioner Chilcott if they are 'hashing this issue out' with the County Attorney. She asked where the highest and best care is for the citizens. She stated the Commissioners should 'not draw lines, but rather work with the County Attorney'. Kathleen asked Commissioner Chilcott why he did not go over and simply talk about the problems with George, as it is important to start working together.

Commissioner Chilcott stated there is disagreement, and there is no fighting. He indicated the Commissioners do not agree on how some of these differences should be resolved. He relayed the Board of County Commissioners and County Attorney is elected offices. If he goes to his attorney asking for help and the attorney does something that has no input from him (the client); that kind of relationship does not work for him. He stated he would rather work together to resolve in order to resolve this issue, but that has not occurred. He also stated in regard to some other issues, the Board has had a different opinion from George. The Commissioners have no jurisdiction over George; we only have control over his budget, and his opinions make a difference in the Commissioners office.

Kathleen stated she is simply worried about the county and this kind of communication or lack of it, slows things down. Commissioner Chilcott stated this does not slow anything down and the Attorney General's opinion won't come too quick.

Commissioner Lyons stated the Commissioners will continue with the subdivision process with the opinion that it is 'one for two'. Planner Renee Van Hoven stated they are applying George's opinion and there is no slow down in the planning office.

Commissioner Lyons stated it would be nice to clean this up in statutory provisions also.

All voted "aye".